Item No. 9

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

CRP (C.R.P. ART.227) No. 58 of 2019

Smt. Maibam Ongbi Sorojini Devi, aged about 71 years W/o (Late) Maibam Nungshibi Singh of Uripok Takhellambam Leikai, Imphal.

……. *Petitioner*

- Versus

Shri Maibam Raghumani Singh, aged about 68 years, S/o (Late) Maibam Gopal Singh of Sagolband Meino Leirak Imphal.

..... *Respondent*

BEFORE

HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR

For the petitioner	:	Mr. A. Viscount, Advocate
For the respondent	:	Mr. Ksh. Naba, Advocate
Date of Order	**:**	**07.02.2020**

ORDER (ORAL)

[1] Heard Mr. A. Viscount, learned counsel appearing for the petitioner and Mr. Ksh. Naba, learned counsel appearing for the respondent.

[2] The civil revision petition has been filed challenging the order dated 10th September, 2019 passed in Revenue Revision Case No. 64 of 2018, relatable to Revenue Appeal Case No. 13 of 2018 and Judl. Misc. Case No. 12 of 2018.

[3] The brief facts of the case are as follows. The present respondent, Maibam Raghumani Singh filed Revenue Appeal Case No. 13 of 2018 against Maibam Nungshibi Singh (now deceased) represent by wife

Maibam Ongbi Sorojini Devi, before the Sub-Divisional Officer, Lamphel, challenging the order dated 24.06.2002 of the AS & SO-V mutating the revenue records in the name of Maibam Nungshibi Singh in respect of homestead land patta No. 267 (old) 468 (New) Dag No. 2016 measuring 0.1240 hectare situated at Village No. 88, Lalambung Imphal West stating that it is erroneous and unlawful.

[4] While filing the said Revenue Appeal Case No. 13 of 2018 before the Sub-Divisional Officer, Lamphel, Maibam Raghumani Singh, respondent herein pleaded that there is a delay of 5754 days. He, therefore, filed Judl. Misc. Case No. 12 of 2018 referable to Revenue Appeal Case No. 13 of 2018, before the Sub Divisional Officer, Lamphel, pleading to condone the delay. This application was opposed by the revision petitioner, Maibam Ongbi Nungshibi Singh (now represented by Maibam Ongbi Sorojini Devi). Despite that, the SDO, Lamphel passed the following order :

> ORDER
>
> Lamphel, the 10th December, 2018
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> Ld. Counsel for both parties are present and heard summarily.
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> The Court has gone through the records submitted by both the parties. It has been contended by the Ld. Counsel for the petitioner that the petitioner could not take appropriate steps within the requisite time. After knowing about the mutated land records, the petitioner immediately applied for certified copy of the Jamabandi of the land in question now.
>
> Thus, the court is of the opinion that delay in filing appeal by the petitioner is not intentional. The explanation furnished by the petitioner seeking condonation of delay is bonafide. An opportunity should be given to the petitioner to put forward the case before the court.
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> Hence, the court accepts the prayer of the petitioner to condone the delay to subserve the ends of justice, however with a cost of Rs. 2000/- (Rupees two thousand only) to the petitioner as a warning to seek remedy without delay in future.

Petitioner is directed to submit the amount to MASLSA (Manipur State Legal Service Authority) with depositor's name as 'The Court of the SDM/Lamphel' within four weeks from today. In case, petitioner fails to deposit the cost within the prescribed period then he shall be liable to pay fine of Rs. 100/- day till its realization.

Application for condonation stays disposed of.

List on 13-12-2018 for compliance.

The court shall proceed with the Appeal case in the next hearing.

Fix next hearing on 28-12-2018.

Announced in the open Court

(Khumanthem Diana Devi)
Sub-Divisional Officer, Lamphel
Imphal West

[5] In the above order, there is no reference to Judl. Misc. Case No. 12 of 2018. However, Maibam Ongbi Sorojini Devi filed the Revenue Revision Case No. 64 of 2018 challenging the above order dated 10.12.2018 passed in Revenue Appeal Case No. 13 of 2018 dated 10.12.2018 pleading that it has been wrongly condoned.

[6] While the Revenue Revision Case No. 64 of 2018 was pending, the present respondent who is also the respondent before the Revenue Tribunal, Maibam Raghumani Singh filed Revenue Misc. Case No. 35 of 2019 to set aside the mutation order of the Assistant Survey and Settlement Officer Manipur dated 24.06.2002 which is the subject matter of Revenue Appeal Case No. 13 of 2018 filed by the very same Maibam Raghumani Singh.

[7] Revenue Misc. Case No. 35 of 2019 was dismissed on 10.07.2019 stating that it has been filed out of context and has got no

connection with the main Revenue Case, and therefore, not maintainable. The relevant para reads as follows:

> "The written objection was raised on the following grounds especially it was contended by the petitioner (present respondent) that question of maintainability on the ground that the present case was filed under section 95 of the MLR & LR Act, 1960 challenging the impugned order dated 10.12.2018 of the SDO, Lamphel for condonation of delay of 5754 days in filing the appeal before the SDO and the present Misc. application has been filed out of context and has no connection with the main Revenue Case and hence it is not maintainable.
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> 4. I have heard the Ld. Counsel for the applicant and respondent at length. The case record submitted by the Sub-Divisional Officer, Lamphel, Imphal West is carefully perused.
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> 5. FINDINGS OF THE COURT.
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> Upon perusal of the case record it is revealed that the Revenue Appeal Case no. 13 of 2018 dated 10.12.2018 is still pending before the court of the Sub-Divisional Officer, Lamphel, Imphal West. As per the said order, the court shall proceed with the Appeal Case on 28.12.2018.
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> In this regard it shall be just and proper for both the parties to continue with the Revenue Appeal No. 13 of 2018, pending before the court of the SDO, Lamphel, Imphal West before knocking at the door of this court.
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> In view of the said pending Revenue Appeal Case, the present proceeding has been has become infructuous.
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> Accordingly, the application is hereby disposed without considering any merit.
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> Bench clerk is directed to send back the case Record along with a copy of this order to the Ld. Sub-Divisional Officer, Lamphel, Imphal West for information.
>
> Announced in the open court."

[8] Thereafter, the present impugned order dated 10.09.2019 was passed in Revenue Revision Case No. 64 of 2018 and reads as follows :

> "6. FINDINGS OF THE COURT
>
> The matter pertains to Judl. Misc. Case No. 12 of 2018 in reference to Appeal case No 13 of 2018 being a prayer for

> condonation of delay for preferring an Appeal against the impugned order dated 24.06.2002 by the AS&SO-V allowing to mutate in the Revenue records in the name of Maibam Nungshibi Singh in respect of the homestead land patta no. 267 (old) 468(new) Dag No. 2016 measuring 0.1240 hectare situated at Village no. 88, Lalambung, Imphal West. However, vide order dated 10.07.2019, passed in Revenue Misc. Case No. 35 of 2019, this court has disposed the application of the applicant by directing that since Appeal Case No. 13 of 2018 is still pending before the SDO, Lamphel, Imphal West, both the parties were directed to continue with the hearing of Appeal case no. 13 of 2018, before knocking at the door of this court.
>
> Hence, the present case is disposed devoid of merit.
>
> Announced in the open court."

[9] Aggrieved by this, the present civil revision petition has been filed by Maibam Ongbi Sorojini Devi pleading that there is no question of relegating the revision petitioner to go before the SDO, Lamphel, without first deciding the issue as to whether the SDO was justified in allowing the condone delay petition.

[10] The enormous delay of 5754 days was condoned in a very casual and arbitrary manner and it is causing great prejudice to the civil revision petitioner. The revenue Tribunal without a proper reason has simply relegated the revision petitioner to go before the Sub Divisional Officer and pursue the appeal.

[11] While doing so, the Revenue Tribunal referred to the earlier order dated 10.07.2019 in Revenue Misc. Case No. 35 of 2019. This is patently wrong. The Revenue Tribunal has to decide the merits of the revenue revision case No. 64 of 2018 wherein a specific challenge is made to the order of the SDO dated 10.12.2018 condoning the delay of 5754 days without just or reasonable cause. Relevant parameters for condonation of

delay have not been taken. It has no connection to Revenue Misc. Case No. 35 of 2019 which was dismissed on 10.07.2019.

[12] Surprisingly, Shri Ksh. Naba, learned counsel appearing for (Maibam Raghumani Singh) respondent herein/appellant before the SDO in Revenue Appeal Case, pleads that there is no valid order passed by the Assistant Survey and Settlement Officer, dated 24.06.2002. It does not exist in the eye of law. The party/appellant wrongly filed an application for condonation of delay. Since, there was no order of the Settlement Officer, the question of delay does not arise because it is an invalid order. He also stated that it was filed erroneously by the previous counsel. Then the court hastened to enquire as to why the party has not chosen to withdraw the condone delay petition. He stated that he is not aware what happened then. The court is unable to fathom what the respondent's counsel wants to do. Either he can withdraw the appeal or the condone delay petition. He can also or oppose the Revenue Revision Case No. 64 of 2018 on merits. The choice is left to the respondent to decide the best course of action.

[13] The stand of the respondent's counsel is that there is no order in the mutation case on the date (i.e.) 24.06.2002 passed by the AS & SO, then the respondent has to work out his remedy according to law as he may desire. To plead that appeal and condone delay petition was not justified would be pleading against the very claim made before the SDO in Revenue Appeal Case No. 13 of 2018. Therefore, that question need not be gone into at this stage, because the revision petitioner is aggrieved only by the order of the Revenue Tribunal dated 10.09.2019 declining to hear the revenue revision case on merit.

[14] The plea of the revision petitioner appears to be correct and justified because the scope of revenue revision case No. 64 of 2018 is against the condonation of delay of 5754 days passed by the SDO in Judl. Misc. Case No. 12 of 2018 referable to Revenue Appeal Case No. 13 of 2018 filed by Maibam Raghumani Singh, the present respondent. The Revenue Tribunal should decide that issue of delay and not relegate the parties to go before the SDO. The order passed on 10.07.2019 in Revenue Misc. Case No. 35 of 2019 was correct because it was a wrong application filed by the respondent in Revenue Revision Case. However, that cannot be a ground to relegate the parties again to the SDO. The Revenue Tribunal should decide the case, Revenue Revision Case No. 64 of 2018 on its own merit after hearing both the parties.

[15] Accordingly, the erroneous order passed by the Revenue Tribunal dated 10.09.2019 in Revenue Revision Case No. 64 of 2018 is set aside. The revenue Tribunal is directed to hear the both the parties before the Tribunal on scope of Revenue Revision Case No. 64 of 2018 only, and dispose of the same in accordance with law on or before 17.04.2020.

[16] Civil revision petition stands disposed of as above.

CHIEF JUSTICE

Sandeep

FR/NFR